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7 South San Francisco Police Department, and
Mark Raffaeli

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 HOWARD ZIMMERMAN and WILLIAM
CARTER.

| Case No. C073623 WHA

Plaintiffs.

STIPULATION AND PROTECTIVE ORDER

15 CITY OF SOUTH SAN FRANCISCO,
16 SOUTH SAN FRANCISCO POLICE
DEPARTMENT, MARK RAFFAELLI, and
DOES 1 through 10, inclusive.

Complaint Filed: July 13, 2007

Defendants.

8 Subject to the approval of this Court, the parties do hereby stipulate to the following
9 protective order:

20 1. City of South San Francisco Police Department personnel files of plaintiffs
21 Howard Zimmerman and William Carter and any other present or former employee of
22 South San Francisco disclosed in this action are to be designated as "Confidential
23 Material." Any documents discussing the qualifications of plaintiffs or any other employee
24 of City of South San Francisco for promotion shall also be designated as 'Confidential
25 Material.' Such designation shall be made by stamping or otherwise marking the material
26 prior to use in this litigation as follows: "Confidential Material Subject to Protective Order."
27 Any reference to material contained in the personnel file of any present or former employee
28 of the City of South San Francisco which is revealed in interrogatory answers or otherwise

1 during discovery in this matter will also be deemed "Confidential Material."

2 2. Confidential Material shall be used solely in connection with this litigation and
3 the preparation and trial of this case, or any related appellate proceeding, and not for any
4 other purpose, including any other litigation.

5 3. Confidential Material may not be disclosed except as set forth in paragraph 4.

6 4. Confidential Material may be disclosed only to the following persons:

7 a. Counsel for any party to this action;

8 b. Paralegal, stenographic, clerical and secretarial personnel regularly
9 employed by counsel referred to in 4(a);

10 c. Court personnel including stenographic reporters engaged in such
11 proceedings as are necessarily incidental to preparation for the trial of this action;

12 d. Any outside expert or consultant retained in connection with this action,
13 and not otherwise employed by either party;

14 e. Any "in house" expert designated by defendant to testify at trial in this
15 matter;

16 f. Witnesses, other than the plaintiffs herein, who may have the
17 documents disclosed to them during deposition proceedings. The witnesses may not leave
18 the deposition with copies of the documents, and shall be bound by the provisions of
19 paragraph 5;

20 g. Any Neutral Evaluator or other designated ADR provider; and

21 h. Parties to this action

22 Nothing in this paragraph is intended to prevent Plaintiffs, officials, or employees of
23 the City of South San Francisco or other authorized government officials from having
24 access to the documents if they would have had access in the normal course of their job
25 duties. Further, nothing in this order prevents a witness from disclosing events or activities
26 personal to him or her, i.e., a witness can disclose to others previous information given to
27 the City of South San Francisco with respect to what she/he saw, heard, or otherwise
28 sensed.

1 5. Each person to whom disclosure is made, with the exception of counsel who
2 are presumed to know of the contents of this protective order, shall, prior to disclosure:
3 (1) be provided a copy of this order by the person furnishing him/her such material, and
4 (2) agree on the record or in writing that she/he has read the protective order and that
5 she/he understands the provisions of the protective order. Signing a copy of this protective
6 order shall be a sufficient indication that the person has reviewed the protective order.
7 Such person must also consent to be subject to the jurisdiction of the United States District
8 Court in the Northern District of California with respect to any proceeding relating to the
9 enforcement of this order. Defendant City of South San Francisco shall be entitled to retain
10 possession of the original confidential materials described above.

11 6. At the conclusion of the trial and of any appeal or upon other termination of
12 this litigation, all Confidential Material received under the provision of this order (including
13 any copies made) shall be tendered back to the City of South San Francisco. Provisions of
14 this order insofar as they restrict disclosure and use of the material shall be in effect until
15 further order of this court.

16 7. Any document filed with the court that reveals Confidential Material shall be
17 filed under seal, labeled with a cover sheet as follows: "ZIMMERMAN et al., Plaintiff, v.
18 CITY OF SOUTH SAN FRANCISCO, Case No. C073623 WHA. This document is subject
19 to a protective order issued by the court and may not be copied or examined except in
20 compliance with that order." Documents so labeled shall be kept by the Clerk under seal
21 and shall be made available only to the court or counsel. Upon failure of the party to so file
22 a document under seal, the producing party may request that the court place the filing
23 under seal.

24 8. Nothing in this order shall preclude a party from showing or disclosing any
25 documents, e.g., deposition transcript, pleading or brief, which otherwise contains
26 Confidential Material as defined in paragraph 1, as long as such document has been
27 redacted so as to prevent disclosure of such Confidential Material.

28 9. The foregoing is without prejudice to the right of any party; (a) to apply to the

1 court for a further protective order relating to any Confidential Material or relating to
2 discovery in this litigation; (b) to apply to the court for an order removing the Confidential
3 Material designation from any documents; and (c) to apply to the court for an order
4 compelling production of documents or modification of this order or for any order permitting
5 disclosure of Confidential Materials beyond the terms of this order.

6 Dated: October 26, 2007

MEYERS, NAVÉ, RIBACK, SILVER & WILSON

7 By:

Samantha W. Zutler
Attorney for Defendants
City of South San Francisco

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11 Dated: October 29, 2007

LAW OFFICES OF DANIEL M. CRAWFORD

12 By:

Dan Crawford
Attorney for Plaintiffs
Howard Zimmerman and William Carter

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19 ORDER

20 The Court has considered the foregoing stipulation of the parties. Good cause
21 appearing therefor, the Court hereby orders that the above-described Confidential Material
22 shall be subject to a protective order fully incorporating the provisions set forth above.

23 PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

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25 Dated: _____

Hon. William Alsup
UNITED STATES DISTRICT COURT JUDGE